



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

BWB/MKM/ML
F. #2011R00634

*271 Cadman Plaza East
Brooklyn, New York 11201*

July 15, 2014

By Hand and ECF

The Honorable Nicholas G. Garaufis
United States District Judge
Eastern District of New York
United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Geraldo Elainor
Criminal Docket No. 11-303 (S-3) (NGG)

Dear Judge Garaufis:

Sentencing in the above-referenced case is scheduled for July 18, 2014. On April 3, 2014, the defendant pled guilty to Counts One and Seven of the above-captioned superseding indictment, charging him with (a) racketeering, in violation of 18 U.S.C. § 1962(c), with predicate racketeering acts of conspiracy to murder members of the rival Crips gang (racketeering act 1), in violation of New York Penal Law Sections 125.25(1) and 105.15 and the murder of Anthony Thomas, in violation of New York Penal Law Sections 125.25(1) and 20.00; and (b) using and carrying a firearm in connection with his racketeering crimes, in violation of 18 U.S.C. § 924(c)(1)(A)(ii). For the foregoing reasons, the government respectfully requests that the Court sentence the defendant within the agreed-upon Guidelines range set forth in the parties' April 3, 2014 plea agreement ("Plea Agreement") of 300 months' imprisonment and 5 years of supervised release.

I. **Background**

As set forth in the Presentence Investigation Report ("PSR"), the Folk Nation is a nationwide gang that uses various gang signs, handshakes and symbols, including, among others, a six-point star, an upward pointed pitchfork and the acronyms BOSS (which stands for "Brothers of the Strong Struggle") and LOTS (which stands for "Land of the Six"). (PSR ¶ 5).

Since approximately 2008, the New York City Police Department (“NYPD”) and the Federal Bureau of Investigation (“FBI”) have been investigating members of the Six Tre Outlaw Gangsta Disciples Folk Nation set (“Six Tre”). The Six Tre operated in the Ebbets Field housing projects in the Flatbush area of Brooklyn for several years. It has approximately 20-25 identified members, several of whom have been previously been arrested for gang-related crimes. From approximately 2007 through 2011, the Six Tre members were responsible for a slew of gang-related violence, including homicides, non-fatal shootings and commercial robberies both in and around Flatbush and elsewhere. (PSR ¶ 6).

From approximately the time of its inception through late 2009, the Six Tre Folk Nation was led by Yassa Ashburn. After Ashburn was incarcerated in late 2009, his deputy, Devon Rodney, assumed street-level control of the group. (PSR ¶ 8).

Members of the Six Tre held gang meetings approximately every 4-6 weeks and the defendant would often lead discussions about money, new members, individual members’ ranks and “violations” that members may have committed. Each Six Tre member was required to contribute money to the gang’s coffers every week, and if a member missed three weeks of payments, he was “violated.” The gang’s collective money was typically used to buy guns. (PSR ¶ 7).

As set forth in the PSR, the defendant and other members of the Six Tre considered themselves at war with the Crips, specifically the President Street crew and the Vanderveer Eight Tre Crips. (PSR ¶ 9). The defendant and other members of the gang agreed to kill Crips members and tried to kill Crips members on several occasions. However, the Six Tre Folk Nation did not limit their violence towards members of the Crips. They routinely took threatening and violent actions to deter residents of the Ebbets Field housing development from associating with members of any other gangs. On August 9, 2008, Anthony Thomas, a Bloods gang member, was exercising in the Ebbets Field playground with his cousin when the defendant, Geraldo Elainor approached and began firing at him. Elainor chased Thomas as he ran away and continued shooting at him, hitting him once in the chest. Thomas eventually reached the parking lot of a nearby McDonalds, where he collapsed and died of his wound. (PSR ¶ 11).

II. Sentencing

The PSR calculates an offense level of 40 and a criminal history category of VI, providing for a Guidelines range of 360 months to life. (PSR ¶ 96). The PSR further determines that the defendant is a career offender, thus increasing his Guidelines range to 480 months to life. Id.

Pursuant to the Plea Agreement, the government submits that a sentence of 300 months' imprisonment is appropriate.

The defendant was a member of a violent criminal enterprise that terrorized the residents of the Ebbets Field housing project. As part of this gang, when the defendant was only 18 years old, he senselessly shot and killed Anthony Thomas, an individual who was exercising in what the defendant deemed to be Folk Nation territory. The seriousness of the offense, the inherent danger the defendant's conduct posed to the community, and the need to deter the defendant specifically from returning to such conduct and others generally from committing it make clear that the lengthy sentence of 300 months' imprisonment that the government seeks will not be greater than necessary to satisfy the purposes of sentencing under 18 U.S.C. § 3553(a).

III. Conclusion

For the reasons stated above, the government submits that a significant term of incarceration is important and respectfully requests that the Court enter a sentence of 300 months' imprisonment.

Respectfully submitted,

LORETTA E. LYNCH
United States Attorney

By: _____ /s/
Berit W. Berger
Kristin Mace
Maggie Lee
Assistant U.S. Attorneys
(718) 254-7000

cc: Clerk of the Court (NGG) (by ECF)
Defense Counsel